

REMARKS

Claims 54-81 are pending in the application. Independent claims 54, 61 and 71 have been amended. No new matter is presented. Reconsideration is requested.

Request for Information Under 37 C.F.R. § 1.105

As noted by the Examiner, there are numerous co-pending applications and issued patents having similar subject matter to the present application. In accordance with 37 C.F.R. § 1.105 and MPEP § 704.11(a), subsection G, Applicant provides the following list of co-pending applications and related patents. Further, a Terminal Disclaimer is being filed concurrently herewith with respect to the list of co-pending applications and issued patents having similar subject matter: U.S. Patent Nos. 6,595,912; 6,602,184; 6,612,978; 6,612,979; 6,663,558; 6,682,474; and 6,702,732; and U.S. Application Nos. 10/314,696; 10/287,723; 10/693,577; 10/705,989; 10/714,189; 10/754,174; 10/754,264; 10/788,791; 10/838,002; 10/865,086; 10/939,721; 10/967,955/ 10/974,237; 10/995,695; 10/793,549; 10/858,995; 10/964,420; 11/008,733; 11/012,833/ 11/051,823; 11/109,175; and 11/317,624.

Claim Rejections Under 35 U.S.C. § 102

Claims 54-81 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Jayaraman (U.S. Patent No. 6,360,749). Applicant respectfully traverses. The Jayaraman reference fails to teach "delivering the cardiac harness to the heart by minimally invasive access." At column 12, lines 52-55, Jayaraman teaches that the bands are "preferably designed to be contractable or collapsible to a compact configuration to facilitate introduction into the patient." After a small incision is made the band is inserted into an introducing catheter in a manner similar to that used for introducing stents into the vascular system. As the Examiner is well aware, stents are delivered through the vascular system into, for example, the coronary or peripheral arteries in a patient. The stent is then expanded via a balloon, or is pushed out of the inside of a catheter to expand into the

vessel. By referring to stent technology to deliver the bands in the Jayaraman reference, the band is forced out of a catheter to expand radially outwardly. The band would not be mountable onto the heart since first, it is inside the vascular system, and secondly, there is no teaching in the stent art how the band would be placed on the outside of the heart either by pulling or pushing the band onto the heart. Accordingly, the Jayaraman reference fails to teach delivering a cardiac harness to the heart by minimally invasive access.

Further, the Jayaraman reference fails to teach "mounting the cardiac harness on the heart so that the self-sizing harness automatically conforms to the size of the heart." Again, with reference to column 12, lines 52-59, the Jayaraman reference fails to teach how the bands are mounted onto the heart so that the bands automatically conform to the size of the heart. Reference to stent technology teaches away from mounting onto the outside of the heart.

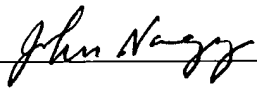
Claims 54, 61 and 71 have been amended to further distinguish the Jayaraman reference. Thus, the Jayaraman reference fails to teach "providing a delivery device for releasably attaching to the heart" and "removably attaching the delivery device to the heart to provide traction by which the cardiac harness can be pushed onto the heart." In view of the foregoing, it is respectfully urged that claims 54-81, as amended, are patentably distinguishable over the Jayaraman reference and the rejection under 35 U.S.C. § 102(e) should be withdrawn.

Conclusion

Claims 54-81 remain pending in the application. Reconsideration is requested. If the Examiner believes a telephone conference would facilitate prosecution of the application, the undersigned can be reached at (310) 824-5555.

Respectfully submitted,

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